



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2019–N087; FXES11140800000–XXX–FF08EVEN00]

**Habitat Conservation Plan for the Smith’s Blue Butterfly, Monterey Spineflower,
and Monterey Gilia; Categorical Exclusion for the South of Tioga Project;
Monterey County, California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application for an incidental take permit for the federally endangered Smith’s blue butterfly under the Endangered Species Act. DBO Development #30, LLC, submitted an application for a permit, which, if issued, would authorize take incidental to otherwise lawful activities associated with the South of Tioga Project draft habitat conservation plan. We invite public comments.

DATES: Written comments should be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: *To obtain documents:* You may download a copy of the draft habitat conservation plan and categorical exclusion screening form which includes the environmental action statement at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail (below) or by phone (see **FOR FURTHER INFORMATION CONTACT**).

To submit written comments: Please send us your written comments using one of the following methods:

- *U.S. mail:* Send your comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Facsimile:* Fax your comments to 805–644–3958.
- *Electronic mail:* Send your comments to karen_sinclair@fws.gov.

FOR FURTHER INFORMATION CONTACT: Karen Sinclair, Fish and Wildlife Biologist, 805–677–3315 (by phone), or at the Ventura Fish and Wildlife office (by mail; see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: We have received an application for an incidental take permit under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant has developed a draft habitat conservation plan (HCP) for the project, which includes measures to mitigate and avoid/minimize impacts to the federally threatened Monterey spineflower (*Chorizanthe pungens* var. *pungens*) and federally endangered Smith’s blue butterfly (*Euphilotes enoptes smithi*) and Monterey gilia (*Gilia tenuiflora* ssp. *arenaria*). The permit would authorize take of the listed wildlife species incidental to otherwise lawful activities associated with the draft South of Tioga HCP. In addition, the HCP anticipates impacts to the federally threatened Monterey spineflower (*Chorizanthe pungens* var. *pungens*) and the federally endangered Monterey gilia (*Gilia tenuiflora* ssp. *arenaria*) and proposes avoidance and minimization measures for all three covered species and mitigation for unavoidable loss of suitable

upland habitat. We invite public comment on the draft HCP and categorical exclusion screening form which includes the environmental action statement.

Background

The Service listed the Monterey spineflower as threatened on February 4, 1994 (59 FR 5499), Smith's blue butterfly as endangered on June 1, 1976 (41 FR 22041), and Monterey gilia as endangered on June 22, 1992 (57 FR 27848). Section 9 of the ESA (16 U.S.C. 1538) and its implementing regulations prohibit the "take" of fish or wildlife species listed as endangered or threatened. "Take" is defined under the ESA to include the following activities: "[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize incidental take of listed species. Incidental take is take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for endangered wildlife are in the Code of Federal Regulations (CFR) at 50 CFR 17.22. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittees would receive assurances under our "No Surprises" regulations (50 CFR 17.22(b)(5)) regarding conservation activities for the Monterey spineflower, Smith's blue butterfly, and Monterey gilia.

Proposed Project Activities

DBO Development #30, LLC, has applied for a permit for incidental take of the Smith's blue butterfly. The take would occur in association with the following activities: the removal of existing structures, utilities, and streets; the construction of 356 multi-

family units, 216 hotel rooms, and a restaurant; and the restoration and preservation of 0.9 acre (ac) of occupied habitat. Within this 10.63-ac project site, the total area proposed for redevelopment measures 9.7 ac, and approximately 73 percent (7.8 ac) of the area proposed for redevelopment is located within existing developed or disturbed areas.

Monterey gilia, Monterey spineflower, and Smith's blue butterfly host plants are located within 1.2 ac of the project site. The project proposes to permanently remove 0.4 ac of occupied habitat. There is no designated critical habitat within the project site. The HCP includes avoidance and minimization measures for the covered species and mitigation for unavoidable loss of suitable upland habitat through establishment of a conservation easement.

Mitigation for unavoidable take of Smith's blue butterfly and its habitat consists of the permanent protection of approximately 0.9 ac of occupied habitat (including the restoration of 0.1 ac of disturbed habitat).

Preliminary Determinations

The Service has made a preliminary determination that issuance of an incidental take permit is neither a major Federal action that will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), nor will it individually or cumulatively have more than a negligible effect on the Smith's blue butterfly in the HCP. The Service considers the impacts of the South of Tioga Project on the Monterey spineflower, Smith's blue butterfly, and Monterey gilia to be minor, as the affected area is small (approximately 0.4 ac) and the project includes the permanent protection of 0.9

ac of suitable habitat that is located adjacent to the project. Therefore, based on this preliminary determination, the permit qualifies for a categorical exclusion under NEPA.

Public Comments

If you wish to comment on the draft HCP and categorical exclusion screening form, you may submit comments by one of the methods in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Stephen Henry,

Field Supervisor,

Ventura Fish and Wildlife Office,

Ventura, California.

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